

Nneka Ezenwa
Director
Federal Regulatory Affairs



March 18, 2009

Ex Parte

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Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Petition of Verizon New England for Forbearance Pursuant to 47 U.S.C. 160 (c) in Rhode Island WC Docket No. 08-24; Petition of the Verizon Telephone Companies for Forbearance Pursuant to 47 U.S.C. § 160 (c) in Cox's Service Territory in the Virginia Beach Metropolitan Statistical Area WC Docket No. 08-49

Dear Ms. Dortch:

On March 17, 2009, Nneka Ezenwa, Rashann Duvall, and Rich Fouke of Verizon and Evan Leo of Kellogg, Huber, Hansen, Todd, Evans and Figel on behalf of Verizon met with Don Stockdale, Deena Shetler, Tim Stelzig, Stephanie Weiner, Pamela Magna, Bill Sharkey, Jay Atkinson, Margaret Dailey and Amy Goodman of the Wireline Competition Bureau to discuss the above captioned matter.

Verizon reviewed the extensive information it has provided in the record demonstrating that in each of the geographic areas where relief is requested there is significant competition from cable, who have ubiquitous networks they are using to provide services to residential and business customers alike. In addition, there is a wide range of other intermodal competitors – such as wireless, fixed wireless and over-the-top VoIP providers who provide a significant and growing alternative to both residential and business customers. The attached material was used in the discussion.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Nneka Ezenwa".

Attachment

cc: Don Stockdale
Deena Shetler
Tim Stelzig

Stephanie Weiner
Pamela Magna
Bill Sharkey

Jay Atkinson
Margaret Dailey
Amy Goodman

*Verizon Petitions for
Forbearance in Rhode Island
and Cox's Service Territory in
the Virginia Beach MSA*



MARCH 17, 2009

◆ **Scope of Relief Requested**

- Relief from Obligation to unbundle DS0, DS1 and DS3 loops and transport under Section 251.
- Relief from Dominant Carrier Regulation for Switched Access Services (including price cap and tariff filing requirements and service discontinuation rules).
- Relief from Requirements Under the Computer Inquiry Rules

◆ **Geographic Areas Where Relief is Requested**

- The state of Rhode Island (excluding Block Island).
- Cox's service territory in the Virginia Beach MSA ("Virginia Beach").

- ♦ **The FCC has held (and the Courts have ruled) that the Section 251 unbundling authority should be used in a targeted manner only in those situations where carriers genuinely are impaired and where unbundling does not frustrate sustainable, facilities-based competition. (*TRRO* at 2)**
- ♦ **The FCC has indicated that ILECs can seek forbearance from the unbundling rules in specific geographic markets where they believe the aims of Section 251(c)(3) have been “fully implemented” and other requirements for forbearance have been met. (*TRRO* at 39)**
- ♦ **In both Omaha and Anchorage, the FCC found that significant competition from the incumbent cable operators warranted forbearance from its unbundling rules.**

Forbearance is Warranted



- ♦ **In the areas where Verizon is seeking relief, competition is more extensive than it was in Omaha with respect to both mass-market and enterprise customers.**
- ♦ **As in Omaha and Anchorage, Cox is fully entrenched throughout Rhode Island and its service territory in the Virginia Beach MSA and has made substantial inroads into Verizon's local exchange businesses.**
- ♦ **In addition to competition from Cox, Verizon has shown that it faces ubiquitous competition from a wide range of technologies and an even broader array of providers: cable, wireless, VoIP, CLECs, and competitive wholesale service providers.**

Competition is Extensive



◆ **Cable:**

- Cox offers competitive voice services throughout the state of Rhode Island (excluding Block Island) and also throughout its service territory in the Virginia Beach MSA.

◆ **Wireless:**

- Wireless services are widely available from multiple providers throughout Rhode Island and Cox's service territory in Virginia Beach.
- Cox plans to add wireless service to its current bundle, which includes digital cable, high-speed Internet and telephone, throughout its footprint during 2009.

◆ **VoIP:**

- At least 20 over-the-top VoIP providers offer services in these area that are comparable in features and price to Verizon's and are available to any customer with a broadband connection.

◆ **Wholesale Alternatives:**

- CLECs use Wholesale Advantage (UNE-P replacement) and resale products to serve mass-market and business customers.

◆ **Enterprise Competition:**

- Cox, CLECs, IXC and fixed wireless providers are serving businesses.

- ◆ **Cox's network is ubiquitous in the areas where Verizon is seeking forbearance and therefore possess the "necessary facilities to provide enterprise services."**
 - Cox's "strong success in the mass market" in these areas and "technical expertise, economies of scale and scope," "sunk investments in network infrastructure," and "established presence and brand" make Cox a strong competitive threat for enterprise customers.
 - Cox's "current marketing efforts and emerging success in the enterprise market" is at least as advanced in these areas as it was in Omaha.
 - Cox has deployed fiber facilities to many enterprise locations. Cox provides wholesale services in these areas.

- ◆ **In addition to cable, there are several additional sources of enterprise competition.**
 - Traditional telecom carriers are also serving enterprise customers. Competitive carriers have deployed transport facilities.

 - The number of residential and business lines served by Verizon/former MCI in Rhode Island and Virginia Beach declined significantly between 1999 and 2007.

Key Competitive Showings (Mass Market)



- ◆ **Based on white pages listings and other available data, Verizon satisfies the Commission's coverage test and market share test.**
 - However, as in the Omaha and 6 MSA proceedings, the Commission should obtain market data from Cox.
- ◆ **The economic downturn has fueled the growth in the number of households that have “cut-the-cord.”**
 - Independent analysts have stated that “[a]s the economy weakens, wireless substitution is increasing. . .” (Bank of America, Merrill Lynch, *Recession Resistant, Not Recession Proof*, Jan 5, 2009)
 - Stephen Blumberg, lead author of the CDC's March 2009 wireless substitution study noted that the study's state-by state data are from 2007 and stated that “we would expect that today in 2009 the prevalence rates in every state have increased, perhaps by 5 percentage points or more.” (Associated Press, *First-Ever State Estimates of Shift from Landlines to Cell Phones*, March 11, 2009)